

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

GEORGE E. LEVELS,

Plaintiff,

and

LIBERTY MUTUAL,

Intervenor Plaintiff,

v.

**CANNONBALL EXPRESS, INC., d/b/a
CANNONBALL EXPRESS
TRANSPORTATION et al.,**

Defendants.

No. 05-CV-914-DRH

ORDER

HERNDON, District Judge:

Pursuant to the Court's March 29, 2007 Order (Doc. 27) requiring a jurisdictional brief, Plaintiff-Intervenor Liberty Mutual submitted a memorandum (Doc. 30) in an attempt to demonstrate that complete diversity exists between the parties. Particularly of concern was the fact Plaintiff had not properly pled the citizenship of the defendant LLCs. The Seventh Circuit deems an LLC a citizen "of every state of which any member is a citizen." *Belleville Catering Co. v. Champaign Market Place, LLC*, 350 F.3d 691, 692 (7th Cir. 2003)(citing *Cosgrove v. Bartolotta*, 150 F.3d 729 (7th Cir.1998)).

Reviewing Liberty Mutual's memorandum, the Court notes that Liberty Mutual has alleged that one LLC – Cannonball Express Transportation Co., LLC, does not exist (Doc. 30). Cannonball Express Transportation, LLC, however, is alleged to be comprised of members Bruce Meyers and Jon Meyers. Liberty Mutual further alleges both members are “citizens of Nebraska” (*Id.* at ¶ 3). In turn, Liberty Mutual refers the Court to the attached Exhibit A, which is a letter, dated April 9, 2007, from Cannonball Express Transportation, LLC's attorney to Plaintiff's attorney. Yet, the letter actually states that Bruce Meyers and Jon Meyers are “*residents* of Nebraska” (Doc. 30, Ex. A)(emphasis added). This will not suffice, as the exhibit does not substantiate Liberty Mutuals' allegations of citizenship. Residency is not the same, under the law, as citizenship. ***See Simon v. Allstate Employee Group Medical Plan*, 263 F.3d 656, 658 n.1 (7th Cir. 2001)(citations omitted)(“An allegation of residency, however, is insufficient to establish diversity jurisdiction.”)**. Consequently, to establish citizenship, a party cannot rely upon substantiating evidence which refers only to an individual's residency.

Thus, the Court must require Liberty Mutual to once again attempt to properly establish diversity jurisdiction. Liberty Mutual is allowed until **Thursday, April 26, 2007**, to file its Second Jurisdictional Brief.

IT IS SO ORDERED.

Signed this 18th day of April, 2007.

/s/ David RHerndon
United States District Judge